APPENDIX TO BRIEF.

LOVINS, *J.*:

P. S. C. No. 2814.

VILLAGE OF BRIDGEPORT, et al.,

v.

CITY OF WHEELING, a Municipal Corporation, et al.

Upon petition for suspension and review of an order of the Public Service Commission entered in this proceeding on March 4, 1943.

The Court having maturely considered the petition for suspension and review filed herein on the 8th day of March, 1943, the papers, documents and record which were before the Public Service Commission at the hearing which resulted in the entry of the order complained of; the briefs and oral arguments of counsel in behalf of complainants and defendants, is of opinion that the subject matter of the regulation made by the order of the Commission entered on March 4, 1943, is local in character, that no specific legislation pertaining thereto has been enacted by the Congress, and that no regulatory action has been taken by the Interstate Commerce Commission or Secretary of War. *Public Service Commission* v. *Bridge Co.*, 114 W. Va. 291, 171 S. E. 760 (certiorari denied 292 U. S. 624, 54 S. Ct. 628); *Missouri P. R. Co.* v. *Larabee Flour Mills Co.*, 211 U. S. 612, 29 S. Ct. 214; *Northwestern Bell Tel. Co.* v. *Nebraska State Ry. Comm.*, 297 U. S. 471, 56 S. Ct. 536, and that petitioner has not shown that it is entitled to the relief prayed for.

It is therefore considered by the Court that the suspending order prayed for in this case be, and the same is hereby denied, and that the petition be and the same is hereby dismissed.

It is further ordered that leave be, and the same is hereby granted to the Public Service Commission to withdraw from the Office of the Clerk of this Court, all papers, documents and records, or certified copies thereof, filed herein pursuant to law.

Chapter 17, Article 17, Section 22, Serial § 1681

Tolls to be Charged; Intrastate and Interstate Bridges; Purchase of Existing Bridges; Disposition of Tolls.

Tolls shall be fixed, charged and collected for transit over such bridges and shall be so fixed and adjusted, in respect of the aggregate of tolls from the bridge or bridges for which a single issue of bonds is issued, as to provide a fund sufficient to pay the principal and interest of such issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing and operating such bridge or bridges, subject, however, to any applicable law or regulation of the United States of America now in force or hereafter to be enacted or made. Two or more bridges may be included in one issue of bonds, and intrastate and interstate bridges may be grouped in the same issue; Provided, That no existing bridge or bridges shall be acquired by purchase, eminent domain, or otherwise, unless the state road commissioner shall have determined that the income therefrom, based upon the toll receipts for the next preceding fiscal or calendar year, will be sufficient to pay all expenses of operating and maintaining such bridge, in addition to the interest and sinking fund requirements of the bonds to be issued to pay the purchase price thereof. The tolls from the bridge or bridges for which a single issue of bonds is issued, except such part thereof as may be necessary to pay such cost of maintaining, repairing and operating during any period in which such cost is not otherwise provided for (during which period the tolls may be reduced accordingly) shall be transmitted each month to the state sinking fund commission and by it placed in a special fund which is hereby pledged to and charged with the payment of the principal of such bonds and the interest thereon, and to the redemption or repurchase of such bonds, such special fund to be a fund for all such bonds without distinction or priority of one over another. The moneys in such special fund, less a reserve for payment of interest, if not used by the sinking fund commission within a reasonable time for the purchase of bonds for cancellation at a price not exceeding the market price and not exceeding the redemption price, shall be applied to the redemption of bonds by lot at the redemption

price then applicable. (1929. c. 8 §10; 1931 c. 44; 1939 c. 113)

Constitution of West Virginia, Art. VIII, Sec. 3

It shall have original jurisdiction in cases of habeas corpus, mandamus, and prohibition. It shall have appellate jurisdiction in civil cases where the matter in controversy, exclusive of costs, is of greater value or amount than one hundred dollars; in controversies concerning the title or boundaries of land, the probate of wills, the appointment or qualification of a personal representative, guardian, committee or curator; or concerning a mill, road, way, ferry or landing; or the right of a corporation or county to levy tolls or taxes; and, also, in cases of quo warranto, habeas corpus, mandamus, certiorari and prohibition, and in cases involving freedom or the constitutionality of a law.